

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
September 14, 2005

ITEM: 10

SUBJECT: City of San Diego Metropolitan Wastewater Department:
Administrative Assessment of Civil Liability as a \$42,000
Mandatory Minimum Penalty against the City of San Diego
for violation of effluent limitations established by Order No.
R9-2002-0025, Waste Discharge and National Pollution
Discharge Elimination System Permit for the City of San
Diego E.W. Blom Point Loma Metropolitan Wastewater
Treatment Plant Discharge to the Pacific Ocean through the
Point Loma Ocean Outfall, San Diego County. (Tentative
Order No. R9-2005-0229) (Mark Alpert)

PURPOSE: The Regional Board will consider adoption of an order
accepting settlement of the proposed liability contained in
Administrative Civil Liability Complaint No. R9-2005-0083.
(Document No. 4)

PUBLIC NOTICE: A public notice was published in the San Diego Daily
Transcript on August 5, 2005. The 30-day comment
period ended on September 5, 2005. The item was also
posted on the Regional Board web page.

DISCUSSION: On February 25, 2005 the Executive Officer issued
Complaint No. R9-2005-0083 *for Administrative Civil
Liability with Mandatory Minimum Penalties* in the amount
of \$42,000 against the City of San Diego Metropolitan
Wastewater Department for 16 violations of effluent
limitations contained in Order No. 2002-0025 that occurred
from June through August 2004. The violations included: 1)
seven-day average effluent limit for settleable solids, 2) daily
maximum effluent limit for settleable solids, 3) thirty-day
average effluent limit for Chlordane and 4) thirty-day
average effluent limit for Heptachlor.

In accordance with California Water Code section 13385 (h) and (i), a Mandatory Minimum Penalty (MMP) of three thousand dollars (\$3,000) shall be assessed for each serious violation (defined as an exceedance of an effluent limitation for a Group I pollutant by 40 percent or more, or for a Group II pollutant by 20 percent or more). A three thousand dollar (\$3,000) MMP shall also be assessed for chronic violations (defined as beginning with the fourth and each subsequent violation of an effluent limitation that are non-serious) occurring during any six consecutive months.

On August 2, 2005 the City of San Diego Metropolitan Wastewater Department proposed to settle the liability recommended in the Complaint. The settlement includes: the City of San Diego's waiver of a hearing, payment of \$13,500 to the State Water Resources Control Board, and payment of \$28,500 to the San Diego Regional Water Quality Control Board to fund a Supplemental Environmental Project (SEP) for the purpose of monitoring sediments and biota in marine coastal waters, bays lagoons and estuaries in the San Diego region. Water Code 13385 (l)(1) contains provisions for Regional Boards, with concurrence of the discharger, to direct a portion of the mandatory penalty to be expended on a SEP in accordance with the enforcement policy of the state board.

If the Regional Board does not adopt the tentative Order accepting the City of San Diego's settlement, a hearing will be rescheduled for a future Regional Board meeting.

No comments concerning this matter have been received to date.

LEGAL CONCERNS: None.

SUPPORTING
DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2005-0229
- (3) City of San Diego's August 2, 2005 Settlement offer
- (4) Administrative Civil Liability Complaint
 No. R9-2005-0083 dated February 25, 2005.

RECOMMENDATION: The adoption of tentative Order No. R9-2005-0229 is recommended.